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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/944,081	09/04/2001	Hideki Ohtsuki	213559US2	1177

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EXAMINER

KOSTAK, VICTOR R

ART UNIT	PAPER NUMBER
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2622

DATE MAILED: 09/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/944,081

Applicant(s)

OHTSUKI, HIDEKI

Examiner

Victor R. Kostak

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 11 July 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,5-7,9,11-14 and 17-29 is/are pending in the application.
- 4a) Of the above claim(s) 11-13,24-26 and 28 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,5-7,14,18-20,27 and 29 is/are rejected.
- 7) ☒ Claim(s) 9, 17 and 21-23 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

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1. Applicant's arguments filed on 07/11/06, in light of applicant's amendment, have been fully considered but they are not persuasive. Applicant's added language does not overcome rejection of record based on Ting, which accordingly still applies, explained as follows.

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 14 and 27 are again rejected under 35 U.S.C. 102(e) as being anticipated by Ting et al. New claim 29 is also rejected under 35 U.S.C. 102(e) as being anticipated by Ting et al.

The scaling system of Ting (noting particularly Figs. 1, 2 and 6) involves outputting a video signal (e.g. video production editing: col. 1 lines 15-17) by converting image data from memory comprising a frame (e.g. col. 4 lines 47-51; col. 11 lines 1-5; Fig. 6 steps 600 and 610). A magnification stage 250 (Fig. 2) alters the size of the input image 100, and a controller (internal to computer which executes instructions by software: col. 14 lines 27-36; controlled steps listed in col. 11 line 6 – col. 12 line 2) with stage 210, controls whether or not magnification should be carried out according to the type of image signal applied to stage 250 (e.g. col. 1 line 60 – col. 2 line 22).

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Applicant now recites the inclusion of “*an image obtaining unit (or a step therefor) which obtains an input data from an image pickup unit when the input image data input is a natural image,*” and argues that Ting decides to scale on the basis of the type of target (subject) pixel.

The examiner first notes that Ting points out that he can scale both natural and artificial imagery which originate from a natural image source and a graphical image source, respectively, noting again text in col. 2 lines 45-57. In that text Ting states that artificial imagery is computer created, and that natural imagery is supplied by a digital camera. Since these data types are made available to his scaling system, then one of ordinary skill in the art must recognize that the sources of the imagery must be (or at least have been) operationally associated with his scaling system. The scaling system input stage is the claimed image obtaining unit. Applicant's claims do not go further than reciting an association between an output device, an image obtaining unit, and control unit. Real time processing or source switching is not recited or required to be inferred. The claims merely require that the image obtaining unit obtains input data from an input pickup unit. How or when it gets there is not recited.

Addressing applicant's second point, he argues that Ting decides to scale on the basis of the type of target (subject) pixel argument. Applicant's claims say that the magnification (scaling) is done in accordance with types of the image data input. Noting again col. 2 lines 45-57 of Ting, Ting states that in order to produce the best (interpolation) results, the interpolation function should be selected based on the type of image being interpolated (the context related to the language regarding natural and artificial imagery). Since Ting provides imagery from both graphical sources and camera (natural) sources, his decision making, based on the target the target (subject) pixel type, must be in response to the source from it was obtained. The scaling

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decision is indeed in accordance with the types of image data input by identifying the type of target pixel to which it corresponds.

Claims 1, 14 and 27 accordingly stand rejected.

As for new claim 29, the examiner presents the same argument as to claims 1, 14 and 27 above. Since Ting obtains imagery from both natural and artificial sources, the claimed graphic image is accounted for (again noting col. 2 lines 45-57 of Ting). That graphics imagery is required to be communicated to the scaling system (more specifically the image obtaining unit stage) in some manner, since the scaling system of course has obtained that data for processing.

(It is further noted that applicant argues that claim 29 involves an image pickup unit, but such is not claimed).

3. The dependent claims stand rejected based on their respective dependencies, as explained in the last Office action and repeated below.

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 5-7 and 18-20 are now rejected under 35 U.S.C. 103(a) as being unpatentable over Ting et al.

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As for claims 5 and 18, Ting applies different respective magnification processes to natural imagery and graphics imagery (e.g. col. 2 lines 45-57), which is a selective process (Fig. 6 step 640; col. 11 lines 35-55), which can be refined (col. 7 lines 8-22).

In view of this, it would have been obvious to one of ordinary skill in the art to allow the user to manipulate the different types of images in a manner that effects one more than the other, moreover such that the size of natural image may be altered and the graphic (artificial) is not, or vice versa, so decided by the user.

As for claims 6 and 19, Ting also accounts for the situation where the two types of imagers may overlap (col. 5 lines 48-50). As discussed above, since the different imagery is scale-processed in different ways, it would have been obvious to manipulate the different types in a manner that effects one more than the other, moreover such that the size of natural image may be altered and the graphic (artificial) is not, or vice versa, as decided by the user.

Regarding claims 7 and 20, it would have been obvious (if not inevitable) to have the condition where the size of the desired output imagery would be the same as the size of the input imagery, which would bypass the need to scale the input (so prompted by the detection of the input frame of image data).

5. Claims 9, 17 and 21-23 remain allowable over the prior art.

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Victor R. Kostak whose telephone number is (571) 272-7348. The examiner can normally be reached on Monday - Friday from 6:30am-3:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David W. Ometz can be reached on (571) 272-7593. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

**Any response to this final action should be mailed to:**

Box AF

Commissioner of Patents and Trademarks  
P.O. Box 1450  
Alexandria, Virginia 22313-1450

**Or faxed to:**

**(571) 273-8300**

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Customer Service Office whose telephone number is (703) 308-HELP.

Victor R. Kostak  
Primary Examiner  
Art Unit 2622

VRK

